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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/665,668	09/20/2009	Larry B. Gray	JJI-49	5527
7590 Audley A. Ciamporcerro, Jr., Esq. Johnson & Johnson One Johnson & Johnson Plaza New Brunswick, NJ 08933-7003			EXAMINER BUI, VY Q	
			ART UNIT 3773	PAPER NUMBER PAPER
			MAIL DATE 09/30/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/665,668	<b>Applicant(s)</b> GRAY ET AL.
	<b>Examiner</b> Vy Q. Bui	<b>Art Unit</b> 3773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed if:
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 17 June 2009.
- 2a)  This action is **FINAL**.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 21 and 22 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a)  The translation of the foreign language provisional application has been received.
- 15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6/17/200.
- 4)  Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

**DETAILED ACTION**

***Specification***

The amendment filed 7/6/2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention.

The added material which is not supported by the original disclosure is as follows: page 6, line 9, the recitation : -- ***As will be seen herein, the waves described in the current stent are curved, without any straight sections.***--.

The Examiner respectfully would like to bring to the Applicant's attention that there is no disclosure in the original written specification to specify that "***the waves described in the current stent are curved, without any straight sections***".

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 21-22 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kleshinski et al. (5,746,765).

As to claim 21, Kleshinski-'765 (Fig. 2-5 and 13) shows stent 14. Stent 14 comprises wire 4 defining longitudinal wave or serpentine struts with links 6 to form a tubular stent structure. The frequency of the struts at the two ends of the stent is greater than the frequency of the struts in the intermediate section of the stent (Fig. 4).

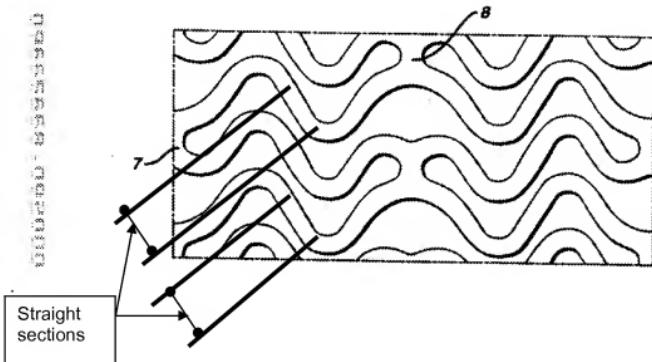
As to claim 22, Kleshinski-'765 (Fig. 5) shows stent 14 having links 6 axially displaced in the manner as recited in the claim.

As to claims 21-22, the disclosure and Fig. 13 of Kleshinski-'765's reveals wave or serpentine struts of Kleshinski-'765's stent 14 are made by bending wire 4 around pins 50, and from Fig. 13, pins 50 have circular cross sections, therefore wire 4 will form curved sections having turning radii associated therewith at locations where wire 4 is bent around pins 50. Alternatively, it would have been obvious to one of ordinary skill in the art to have cross sections of pin 50 of circular configuration rather than a square configuration, at least for this circular configuration would provide less stress concentration at the locations where wire 4 is bent.

At least Kleshinski-'765's stent 14 includes curved section where struts 6 are bent around pins 50 (Fig. 13). It is clearly shown in Fig. 13 that Kleshinski-'765's stent 14 includes straight sections where struts 6 abut each other along a distance between two pins 50. However, Fig. 2 and 6 (Fig. 2 is reproduced below) of the present invention also show curved and straight sections, therefore the stent of the present invention includes curved and straight sections as well as Kleshinski-'765's stent.

Because Kleshinski-'765's stent and the stent of the present invention include both straight sections as well as curved section, therefore, the struts of both Kleshinski-'765's stent and the stent of the present invention are considered as serpentine struts as recited in the claims.

**FIG. 2**



3. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleshinski et al. (5,746,765) in view of Klein-5,593,442.

As to claim 21, Kleshinski-'765 (Fig. 2-5 and 13) shows stent 14. Stent 14 comprises wire 4 defining longitudinal wave or serpentine struts with links 6 to form a tubular stent structure. The frequency of the struts at the two ends of the stent is greater than the frequency of the struts in the intermediate section of the stent (Fig. 4).

As to claim 22, Kleshinski-'765 (Fig. 5) shows stent 14 having links 6 axially displaced in the manner as recited in the claim.

Kleshinski-'765 (Fig. 2-5 and 13) does not explicitly disclose the struts of stent 14 as serpentine. However, Klein-'442 discloses stent 40 (F. 3-4A and 4B; C 6, L 43-61) including serpentine ring 49 having linear elements 51a, b and c between beam members 50 and 52.

It is clearly from Klein-'442 reference that a serpentine shape would include linear struts arranged in a general zigzag manner. In view of Klein-'442, it would have been obvious to one of ordinary skill in the art to recognize that the Kleshinski-'765's stent 14 (Fig. 5) is also recognized as having serpentine shaped struts and the claims 21-22 in the present application do cover the embodiment as shown in F 5 of Kleshinski-'765. In other word, Kleshinski-'765's stent 14 (Fig. 5) at least renders claims 21-22 of the present invention obvious, if not anticipated, in view of Klein-'442.

***Response to Arguments***

The amendment and remarks filed on 6/17/2009 under 37 CFR 1.131 has been considered but is ineffective to overcome the applied references in the above rejection. The amendment and remarks filed on 6/17/2009 under 37 CFR 1.132 filed on 6/17/2009 is insufficient to overcome the rejection of claims 21-22 based upon the references as set forth in the above rejection. The term "serpentine" alone does not clearly distinguish the present invention over Kleshinski-'765 alone or in combination with Klein-'442.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vy Q. Bui/  
Primary Examiner, Art Unit 3773